

U.S. Patent Application Serial No. **09/926,697**
Amendment filed April 4, 2007
Reply to OA dated October 11, 2006

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings include changes to Fig. 1 and Fig. 2. These sheets, which include Figs. 1 and 2, replace the original sheets including Figs. 1 and 2.

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REMARKS

Claim has/have been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicants regard as their invention. The applicants respectfully submit that new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated **October 11, 2006**.

Claim Rejections under 35 U.S.C. §101

Claims 1-8 and 12-22 have been rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Specifically, the Examiner asserts that the recitation of a “risk improvement table” is a compilation of data and descriptive material *per se* and therefore non-statutory subject matter.

As indicated in MPEP §2106.01(I), page 2100-18,

Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See e.g. *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760. ...

In contrast, a claimed computer-readable medium with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

Therefore, this passage indicates that data structures must be embodied in computer-readable media and cause a functional change in the computer.

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Further, MPEP §2106.01(II), page 2100-18 also indicates

... mere arrangement of ... data, are merely stored so to be read or outputted by a computer without creating any functional interrelationship either as part of the stored data or as part of the computing process performed by the computer, then such descriptive material alone does not impart functionality either to the data as so structured , or to the computer.

Thus, in the foregoing passage the data structure must be part of a computer program that brings about a functional change.

Therefore, the applicant is canceling claims 1-10 and 12-22 and rewriting them to meet U.S. patent practice standards. Specifically, new claims 23-52 are added to the application and comply with the requirements of 35 USC §101. No new matter is added to the application.

Therefore, withdrawal of the rejection of claims 1-8 and 12-22 under 35 U.S.C. §101 is respectfully requested.

Claim Rejections under 35 U.S.C. §112

Claims 1-10 and 12-22 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Examiner is confused as to which statutory class the claims are directed to. As discussed above, the applicant has created a set of new claims which comply with U.S. patent practice standards and all the requirements of 35 USC §112, second paragraph.

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Therefore, withdrawal of the rejection of claims 1-10 and 12-22 under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claim Rejections under 35 U.S.C. §102

Claims 1-10 and 12-22 stand rejected under 35 U.S.C. §102(b) as being anticipated by Connelly (U.S. 5,738,113 A).

The present invention is a system, process and computer program for evaluating and improving oral health utilizing a risk improvement table to determine overall risk of oral disease and optimum avoidance measures. This system, process and computer program includes a risk estimation processing part used to determine individual risk factors and the overall risk of oral disease using items contained in the risk improvement table. These items are obtained based on a number of questions and examination items obtained during one or more examination sessions conducted with a practitioner. This system, process and computer program also includes a risk avoidance measure presentation processing part that identifies measures to reduce the overall risk determined based on said individual risk factors. These individual risk factors include individual factors, state of oral hygiene, oral hygiene habits, awareness of oral hygiene, general health care awareness, morphology of teeth, and factors related to saliva.

Connelly describes method for control and reduction of dental caries using a antimicrobial and fluoride treatment. Connelly does disclose several tables containing risk factors.

However, the risk factors identified by Connelly appear related to microbial factors and do

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not include such factors as individual factors, state of oral hygiene, oral hygiene habits, awareness of oral hygiene, general health care awareness, and morphology of teeth. Further, Connelly does not appear to describe risk avoidance measures based on individual risk factors. However, the present invention provides for a risk improvement table with a display portion for the predicted overall risk and the optimum avoidance measures. Further, an improvement possibility display that shows the chances for improvement predicted by the avoidance measures is created.

These features have been incorporated into new claims 23-52. Therefore, withdrawal of the rejection of claims 1-10 and 12-22 under 35 U.S.C. §102(b) as being anticipated by Connelly (U.S. 5,738,113 A) is respectfully requested.

Replacement Figures

Figures 1 and 2 have been amended to correct typographical errors. No new matter has been added. Entry of new Figures 1 and 2 is respectfully requested.

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Conclusion

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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PATENT TRADEMARK OFFICE

Enclosures: Figures 1 and 2

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